

AGENDA ITEM#
September 13, 2002

To: Delta Protection Commission

From: Margit Aramburu, Executive Director

Subject: CALFED Ecosystem Restoration Funding Grant Application for
Dutch Slough Acquisition and Restoration to Wetland Habitat, Contra
Costa County, Secondary Zone of the Delta
(For Commission Discussion and Adoption of Comments)

REVIEW PROCESS:

Earlier this year, the Commission reviewed and submitted comments to CALFED on a number of ecosystem restoration funding applications for projects in the Delta Primary Zone. In addition to a number of studies and projects recommended for full funding, CALFED ecosystem restoration staff recommended that a number of projects be revised and resubmitted for consideration. While most of those projects will be submitted on October 1, 2002, one application is on an earlier review cycle. The revised application submitted by: California Coastal Conservancy, The Conservation Fund, Natural Heritage Institute, and the three current landowners will be discussed at the CALFED Management Group meetings of September 24, 2002, and a final recommendation regarding funding the revised application will be made at the October 8, 2002 Management Group meeting.

DELTA PROTECTION COMMISSION CALFED COMMITTEE:

The CALFED Committee is slated to review this proposal at its meeting of Tuesday, September 24, 2002. The comments of the CALFED Committee will be provided the Commission at the September 26, 2002 meeting.

**COMMISSION ISSUES RAISED IN THE CALFED PLANNING PROCESS
REGARDING ECOSYSTEM RESTORATION IN THE DELTA:**

The Delta Protection Commission has raised a number of issues regarding impacts on Delta agricultural lands. The Commission's comments on the CALFED environmental document included:

- Restore existing, degraded habitat prior to retiring Delta agricultural land.
- Develop habitat on public land prior to retiring Delta agricultural land.

- Absent public lands for restoration, acquire and restore land from willing sellers where at least part of the reason to sell is economic hardship (land that floods frequently or levees that are too expensive to maintain).
- Acquisition and retirement of additional privately-owned agricultural lands should be conditions to ensure:
 - Proposed restoration project shall not adversely impact Delta water quality, particularly salinity levels, and
 - Proposed restoration projects shall not adversely impact existing uses on adjoining land or adjacent islands.
- CALFED should evaluate the need to mitigate loss of agricultural lands and associated economic impacts.
- Appropriate measures should be taken to minimize production of mosquitoes on restored sites.

Dutch Slough Tidal Marsh Restoration Project Description

Prepared by applicants.

BACKGROUND:

The California Coastal Conservancy and co-applicants the Natural Heritage Institute, The Conservation Fund, and the Emerson, Burroughs, and Gilbert families have applied to CALFED for a \$25.6 million grant to acquire and begin restoration of a 1,166 acre site in east Contra Costa County in the Delta Secondary Zone. The site topography and elevation are uniquely suited for a large-scale tidal marsh restoration project. If CALFED does not fund the project, the landowners and the City of Oakley plan on developing a master planned community on the site pursuant to a 1997 Development Agreement between the landowners and the County.

The project is supported by the Oakley City Council, the Contra Costa Board of Supervisors, the Bethel Island Municipal Advisory Committee, the Knightsen Town Council, the Iron House Sanitary District, Senator Torlakson, Assemblyman Canciamilla, and numerous local groups and residents.

PROJECT LOCATION:

The Dutch Slough Project is located in Oakley in northeast Contra Costa County in the Delta Secondary Zone. The site encompasses nearly 2 square miles (1,166 acres) bounded on the north by Dutch Slough, on the south by the Contra Costa Canal, on the east by Jersey Island Road, and on the west by Marsh Creek. The property is dissected by Emerson Slough and Little Dutch Slough. Approximately 1/3 of the parcel is located on Hotchkiss Tract within RD 799. The Ironhouse Sanitary District owns Jersey Island to the north and all of the land to the east along Marsh Creek that they manage for grazing and dispersion of treated wastewater. The East Bay Regional Park District owns Big Break to the northeast of the site. Lands to the east along Jersey Island Road are owned by the Leshner Family Trust and the Del Puerto family and currently managed as pasture and rangelands.

If the proposed project is implemented, the Emerson, Burroughs, and Gilbert families will, in a separate transaction, deed 64 acres north of the Contra Costa Canal to the City of Oakley for community facilities, as described below. The families will retain ownership of the lands to the south along the Contra Costa Canal and develop them for residential and commercial purposes.

HISTORY OF OWNERSHIP OF THE SITE

The current landowners are long-time landowners. The Emerson family has owned the land since the mid nineteenth century and has operated a dairy on the site since the early twentieth century. The Burroughs family purchased the lands between Emerson Slough and Jersey Island Road in 1906 and managed them as a dairy for several decades. In 1974, they sold the parcel immediately east of Emerson Slough to the Gilbert Family. The Burroughs and Gilbert parcels have been managed as rangelands for over two decades.

DESCRIPTION OF THE SITE:

None of the property is subject to a Williamson Act Contract, and the property is not within Contra Costa County's "agricultural core." The site is within Contra Costa County's urban limit line, has been zoned for urban development since 1990, and is subject to a 1997 Development Agreement between the County and the landowners that allows for the development of approximately 4,000 residential units on the site. The City of Oakley incorporated in 1999 and is bound by the Development Agreement. The City is currently in the process of developing a general plan.

The site is characterized by gently sloping topography and mineral soils that were deposited on the Marsh Creek delta. Elevation on the site ranges from 8 feet below sea level to over 15 feet above sea level on some remnant dunes. The median elevation is at sea level rendering the site ideal for tidal marsh restoration. The elevation of the levees surrounding the site maintained to agricultural standards are generally 9 feet NGVD, approximately 2 feet above the 100 year flood level. The soils on the site are a complex mosaic of mineral soils and organic soil types. Each of the three parcels is currently drained with a ditch network that flows to the north. Current groundwater levels are close to the ground surface.

USES OF THE SITE:

The property is currently managed as a dairy and for rangeland, but if the proposal to CALFED is not funded the property will soon be developed with up to 4,000 residential units according to the Contra Costa general plan and the 1997 Development Agreement.

If the project proceeds, 55 acres and 2 historic structures will be deeded to the City of Oakley for use as a community park, swimming lagoon, and interpretive facilities. Eight additional acres will be deeded to the City east of Jersey Island Road along Dutch

Slough. The City will be given access easements for trails along the levees of some of the property. Currently there is no public access or recreation on the site. The proposed project envisions creating approximately eight miles of new trails, wildlife viewing opportunities and non-motorized boat access to the interior of some of the site.

The site does not currently provide any recreational opportunities and has limited wildlife values. Under the current private ownership, the public is not permitted to access the property. The landowners commissioned detailed biological surveys and a wetland delineation that identified less than 50 acres of seasonal wetlands and no endangered or at risk species.

HISTORY OF FLOODING

The property has not flooded for over 100 years.

PURPOSE OF THE PROJECT

The project goals are to:

1. Implement a large-scale, locally supported restoration project that will serve the local community with shoreline access as well as educational, recreational, and economic opportunities.
2. Restore the Dutch Slough properties to a fully functioning, self-sustaining ecosystem that includes a mosaic of habitat types including shallow water, emergent marsh, intertidal marsh, seasonal wetlands and flood plains, Antioch dune scrub, riparian forest, and oak savannah.
3. Significantly contribute to the state of scientific understanding of floodplain and of tidal marsh and floodplain restoration through on-going experimentation and monitoring under an adaptive management framework.

DETAILS OF THE PROPOSED PROJECT, OR PROJECT ALTERNATIVES UNDER CONSIDERATION

The project co-applicants and the City of Oakley believe that the Department of Water Resources (DWR) is the most appropriate agency to own the site during the restoration. DWR has valuable experience restoring, managing and maintaining leveed lands in the Delta. In addition, the project is tied to DWR's mandates to preserve water quality and restore habitat for endangered fish species. DWR is expected to make a decision this fall about its long-term role in the project.

The site will be incrementally restored to tidal action with small, engineered levee breaches. The vast majority of levees on the site will be carefully maintained after tidal inundation to prevent increased wave fetch from eroding adjacent islands. Before tidal inundation, the interior levee berm slope will be graded and armored to prevent erosion of the backside of the levees. During the first phase, a small levee breach will be constructed on the Gilbert parcel near the head of Emerson slough. Levee breaches will

be created on the Emerson and Burroughs parcel during subsequent phases of restoration. Before the levee breach is constructed on the Burroughs parcel, a new levee parallel to Jersey Island Road will be constructed along the eastern boundary of the site to provide flood protection for Hotchkiss tract. Some grading will occur on the site to optimize the amount area of tidal marsh habitat, and the site will be planted with riparian and wetland vegetation to provide habitat for a diversity of species.

The Department of Water Resources conducted a modeling analysis to evaluate potential water quality impacts of the project and determined that the project would not degrade Delta water quality.

NEARBY PENDING AND PROPOSED PROJECTS

EBRPD Big Break Shoreline, Ironhouse Sanitary District Jersey Island expansion, Marsh Creek delta restoration, Delta Science Center, DWR Flooded Island Study

PERMITS/ACTIONS REQUIRED

Acquisition of the site is categorically except under CEQA, Section 15313. Planning and feasibility studies for the restoration are statutorily exempt under Section 15262. If funding for the acquisition and planning work is approved, the Coastal Conservancy will file a notice of exemptions with Contra Costa County and the state clearinghouse. An EIR/EA will be prepared the restoration project.

The following permits may be need to implement the restoration project:

- Grading Permit
- Scientific Collecting Permit
- CESA Compliance: 2081
- 1601/03
- CWA 401 certification
- Reclamation Board Approval
- ESA Compliance Section 7 Consultation
- Rivers and Harbors Act
- CWA 404
- Permission to access state land from State Lands Commission

ISSUES:

Agriculture:

The Dutch Slough property will not remain in agriculture if the restoration project is not implemented. Rather, the site will be developed as large-scale master planned community. The Dutch Slough property was designated for mixed-use development in the Contra Costa County General Plan in 1991. This designation could permit approximately 4,500–6,100 residential units and other development to be constructed on the larger 1,539 acres, which includes the entire Dutch

Slough Restoration Project area. The Dutch Slough property remains inside the County's urban limit line. Residential development around Dutch Slough has already occurred or is imminent, and the landowners have already secured a verified delineation from the Army Corps of Engineers covering 2 of the 3 properties. This delineation identifies less than 45 gross acres of wetlands.

Wildlife Habitat:

Restoration of the site will create a heterogeneous mosaic of wetland and upland habitat types that will benefit numerous native species. With current grading and tidal inundation, the site will create the following types of habitat.

Current Elevation (feet below MLLW)	Potential Habitat Type	Total (acres)
-10 to -3	Shallow Water	373
-3 to 0	Emergent Marsh	224
0 to 3	Intertidal Marsh	259
3 to 5	Seasonal Marsh & Floodplain	137
5 to 8	Mixed Riparian-Oak Woodland	82
8 +	Antioch Dune Scrub	91
	Total (acres)	1,166

Recreation:

The project will create new access and recreational opportunities in the secondary zone of the Delta. The project will include over 4 miles of new trails around the property, provide a non-motorized boat launch for public use, designated fishing access including small fishing piers, and a community park with picnic and interpretive facilities.

Other Issues:

The project applicants are working with the Contra Costa Mosquito and Vector Control District to design the project implementation and management to minimize mosquito problems.

STAFF-IDENTIFIED ISSUES REGARDING THE DUTCH SLOUGH PROJECT:

Agriculture:

Cumulative Impacts to Prime Ag Lands in the Area? The site is designated prime, lands of statewide importance and unique, in a mosaic of designations. The restoration or development of this parcel will be the loss of the last large parcel of agricultural land along the northeast Contra Costa shoreline. There are other lands in the East County slated for long-term protection as agricultural land.

Consistent with Williamson Act? Lands not under Williamson Act contract.

Impacts to Adjacent Agricultural Land Uses? No, because of separation and existing uses. Lands to east: Big Break Shoreline Park and Ironhouse Sanitary District Treatment Plant, to south: Contra Costa Canal, to east: slated for residential development, to north: Jersey Island used for agriculture and disposal of treated wastewater and sludge and owned by Ironhouse Sanitary District.

Buffer Areas Needed/Included Between Proposed Use and Existing Adjacent Uses?

Site is separated from other areas/uses by: Jersey Slough, Marsh Creek, Contra Costa Canal, and to East: existing levee and Jersey Island Road.

Would Development of New Aquatic Habitat Affect Nearby Water Diversions? No known nearby water diversions.

Wildlife Habitat:

Will the Project Result in the Loss of Existing Habitat? What Type? Proposed project will replace irrigated pasture with mosaic of wetland habitat and water-covered areas.

Will the Project Protect and/or Enhance Existing Wetland Habitat (duck club, in-channel island)? No, project will replace irrigated pasture with wetland habitat.

Is the Project Consistent with Regional Plans for Habitat Enhancement? Contra Costa County has started preparation of an East County Habitat Conservation Plan, but no regional plan has been adopted.

Does the Project Take Advantage of Wildlife Habitat Benefits Associated with Agriculture (Mosaic Concept; Seasonal Flooding; etc.)? No, project replaces agriculture.

Are there Benefits Associated with “Adding On” to Existing Habitat Areas, Such as Creation of a Corridor? Yes, site is east of and adjacent to Big Break which is owned by East Bay Regional Park District and will be managed for wetland habitat values.

Are There Adequate Provisions for Management of the Site? Long term management is not yet determined; may be a State agency.

Is Site Ownership an Easement Which Allows Land to Remain in Private Ownership? No, site would be acquired by non-profit and possibly held long-term by a State agency.

Project on Publicly Owned Land, Within Designated Refuge, or Lands Subject to Flood Easement? No.

Recreation:

Will Existing Recreation Activities be Displaced? No recreation on existing site.

Does the Project Include New Recreational Development (New Trails, New Overlooks, New Small Boat Launch Facilities; New Fishing Facilities; New Picnic

Facilities; New Interpretive Facilities)? Yes, proposed project would include a significant recreation component.

Would New Recreational Development Complement Surrounding Land Uses? Yes, trails will link to other regional trails and to Big Break Regional Shoreline.

Other Issues:

Address Mosquito Control Component? Future design of habitat will need to address mosquito control.

Promote Subsidence Control? Most soils on the site are not subject to subsidence (Joice-Reyes, saline mucks and silty clays on saltwater marshes and tidal flats). Soils on northeast Emerson and northwest Gilbert are peat soils.

Impacts to Levees? Modification of internal water regime will impact landside of the levees and require strengthening, or planned erosion. Unable to determine impacts to levees on other islands/tracts.

Increased Levee Erosion/Impacts? Restoration of wetland habitat will require additional strengthening of west side of east levee; levee supports Dutch Slough Road.

Increased Water Pressure on Levees? Restoration of wetland habitat will require additional strengthening of west side of east levee; levee supports Dutch Slough Road.

Unauthorized Recreation Uses? Recreation will be a part of the proposed project.

Increased Flood Pressures on Downstream Levees? Not modeled, but no apparent increased flood pressures on downstream levees.

Impacts to Levee Inspections and/or Maintenance? No apparent impacts to levee inspection or levee maintenance.

Is the proposed project consistent with local plans? The site is now in the City limits of the new City of Oakley. The draft General Plan for the City (August 30, 2002) now designates the Dutch Slough site as Delta Recreation and Parks and Recreation. Thus the proposed restoration project would be in compliance with the proposed General Plan. The City Council has taken a position of support of the proposed application for funding and the proposed restoration project.